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AZ CORP COMMISSION
DOCKET CONTROL

John G. Gliege (#003644)
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Attorney for Fred B. Krafczyk

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF PINE WATER COMPANY FOR
APPROVAL TO (1) ENCUMBER A PART
OF ITS PLANT AND SYSTEM PURSUANT
TO A.R.S. §40-285(A); AND (2) ISSUE
EVIDENCE OF INDEBTEDNESS
PURSUANT TO A.R.S. §40-302(A).

DOCKET NO. W-03512A-07-0362

NOTICE OF FILING

FRED B. KRAFCZYK, intervener in the above captioned matter, hereby submits the Notice of Filing in this referenced matter. Attached hereto as Exhibit A is the Direct Testimony of Fred B. Krafczyk.

RESPECTFULLY SUBMITTED this 19th day of November, 2007.

GLIEGE LAW OFFICES, PLLC

John G. Gliege
Attorney for Fred B. Krafczyk

Arizona Corporation Commission
DOCKETED
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1 Original and thirteen copies of the foregoing
2 Mailed this 19th day of November, 2007 to:

3 Docket Control Center
4 Arizona Corporation Commission
5 1200 W. Washington Street
6 Phoenix, AZ 85007

7 Copies of the foregoing
8 Mailed this 19th day of November, 2007 to:

9 Fennemore Craig, P.C.
10 Attn: Mr. Jay L. Shapiro
11 3003 North Central Ave. Ste 2600
12 Phoenix, AZ 85012-2913
13 Attorneys for Pine Water Company

14 Mr. Dwight D. Nodes
15 Assistant Chief Administrative Law Judge
16 Arizona Corporation Commission
17 1200 W. Washington Street
18 Phoenix, AZ 85007

19 Mr. Kevin Torrey, Esq.
20 Legal Division
21 Arizona Corporation Commission
22 1200 W. Washington Street
23 Phoenix, AZ 85007

24 RENSCH WALKER & HARPER, PC
25 Attn: Michael J. Harper
26 111 W. Cedar Lane, Ste C
27 Payson, AZ 85541
28 928-474-0322
29 Attorneys for Cindy Maack

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EXHIBIT A

Direct Testimony

Of

Fred B. Krafczyk

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 **IN THE MATTER OF THE APPLICATION**
4 **OF PINE WATER COMPANY FOR**
5 **APPROVAL TO (1) ENCUMBER A PART**
6 **OF ITS PLANT AND SYSTEM PURSUANT**
7 **TO A.R.S. §40-285(A); AND (2) ISSUE**
8 **EVIDENCE OF INDEBTEDNESS**
9 **PURSUANT TO A.R.S. §40-302(A).**
10

} **DOCKET NO. W-03512A-07-0362**
}
}
} **DIRECT TESTIMONY OF FRED B.**
} **KRAFCZYK**
}
}
}

11 **Q. 1. PLEASE STATE YOUR FULL NAME, ADDRESS AND TELEPHONE NUMBER.**

12 A. 1. Mr. Fred B. Krafczyk, 8039 Louthian, Strawberry, AZ 85544. Telephone number is 602-571-
13 6429.

14 **Q. 2. PLEASE STATE YOUR OCCUPATION AND BUSINESS CONTACT INFORMATION**
15 **INCLUDING ADDRESS AND TELEPHONE NUMBER.**

16 A. 2. Sovereign Consulting Funding Sources, LLC, Commercial Loans, SBA, Project Funding, PO Box
17 12707, Tempe, AZ 85264-2707. Telephone number is 480-755-1400.

18 **Q. 3. HAVE YOU HAD THE OPPORTUNITY TO REVIEW THE DIRECT TESTIMONY OF**
19 **MICHAEL GREER?**

20 A. 3. Yes.

21 **Q. 4. DO YOU CONCUR WITH MICHAEL GREER'S DIRECT TESTIMONY?**

22 A. 4. Yes.

23 **Q. 5. DO YOU HAVE OBJECTIONS OR CONCERNS REGARDING THE JOINT WELL**
24 **DEVELOPMENT AGREEMENT between PINE WATER COMPANY and PINE-**
25 **STRAWBERRY WATER IMPROVEMENT DISTRICT (K2 Agreement)?**

26 A. 5. Yes, I do have concerns. There are a number of issues concerning the legality of the agreement
27 itself, which must be resolved. In order to complete a loan transaction it is necessary that the parties
28 have the legal capacity to enter into it, credit worthiness, collateral, and the capacity to repay the debt.
29

1 Addressing the first issue, that of the capacity of the District to lend money to Pine Water
2 Company, I hereby incorporate the *Objection to Application to Encumber System and Issue Evidence of*
3 *Indebtedness* filed by Cindy Maack with the Arizona Corporation Commission in the above referenced
4 matter on the 6th day of August, 2007. Clearly this loan of funds to Pine Water Company by Pine-
5 Strawberry Water Improvement District (hereafter "PSWID") constitutes a loan of public funds to a
6 public service corporation in violation of the Arizona State Constitution. My second concern about
7 capacity is whether or not the District can bind future boards of directors to this agreement, because
8 substantial portions of the agreement call for the exercise of discriminatory judgment by Pine Water
9 Company and future boards of PSWID may not be willing to be bound by that judgment. There is a
10 recall election scheduled for March 8, 2008, which will have an impact on the composition of the
11 PSWID Board. My third concern regarding capacity is whether or not the establishment of the escrow
12 account in the K2 Agreement constitutes an unlawful delegation of the power and duties of the Board of
13 Directors of PSWID to some other party.

14 Addressing credit worthiness, I have examined the available financial data on Pine Water
15 Company and cannot in good conscience make a determination that Pine Water Company has the credit
16 worthiness to borrow \$300,000.00 from PSWID.

17 Addressing the concern of collateral, it appears that the parcel of property being offered as
18 collateral is insufficient in value to support a loan in the amount of \$300,000.00. This is because the site
19 has limited legal viable access, its size, and a portion of the property is located in a flood plain.
20 Therefore, the collateral appears to be insufficient.

21 Last, addressing the issue of the capacity of Pine Water Company to repay the debt, absent a
22 substantial rate increase from the Commission to cover the costs of debt repayment, the publicly
23 available records on Pine Water Company make it clear that they do not have the capacity to adequately
24 repay the debt.

25 **Q. 6. DO YOU HAVE ANY OTHER CONCERNS ABOUT THE K2 AGREEMENT?**

26 A.6. Yes, I do have additional concerns regarding the K2 Agreement. It is my understanding that the
27 PSWID acted without complete information concerning the peer reviews of the Hydrological Report of
28 Michael Ploughe.